

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Khammesherma Smith,

Plaintiff,

vs.

Dr. Ayllene, Lakeyna Campbell,

Defendants.

C.A. No. 6:23-02698-HMH-KFM

OPINION & ORDER

This matter is before the court upon Khammesherma Smith’s (“Smith”) untimely objections, which the court construes as a motion to alter or amend judgment made pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court denies Smith’s motion. A Rule 59(e) motion may be made on three grounds: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). “Rule 59(e) motions may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment” Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). “In general reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” Id. (internal citation and quotation marks omitted).

Upon review, Smith does not identify any intervening change in controlling law, new evidence, or clear error of law. Further, Smith alleges that his objections are late due to transfer to another institution. On June 26, 2023, the magistrate judge issued a proper form order advising Smith that

if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the Court.

(Proper Form Order, ECF No. 7.) Smith had an obligation to inform the court of any address change, and Smith failed to inform the court. In addition, Smith's "objections" are wholly without merit and nonspecific, generally arguing that the three strikes rule does not apply because he has appealed all of his prior cases. (Obj. & Mot., ECF No. 25.) Smith has more than three actions that were specifically dismissed under grounds that qualify as strikes under 28 U.S.C. § 1915(g). Based on the foregoing, the court finds that Smith has made no showing of error.

It is therefore

ORDERED that Smith's motion to alter or amend judgment, docket number 25, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United State District Judge

Greenville, South Carolina
October 3, 2023

NOTICE OF RIGHT TO APPEAL

Smith is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.